

FILED

US DISTRICT COURT
WESTERN DISTRICT
OF ARKANSAS

Jan 3, 2018

OFFICE OF THE CLERK

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION**

JAVIER DELGADO,

PLAINTIFF

V.

NO.: CV-17-215-4 18-1001

WEYERHAEUSER COMPANY

DEFENDANT

NOTICE OF REMOVAL

Weyerhaeuser Company is named as a Defendant in the above-captioned case, in which Plaintiff seeks to recover damages for personal injury. The Complaint, captioned *Javier Delgado v. Weyerhaeuser Company*, was filed in the Circuit Court of Columbia County, in the State of Arkansas. Defendant hereby files this Notice of Removal of this action to this Court. In support of said removal, Defendant states as follows:

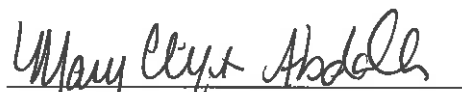
1. On or about November 22, 2017, Plaintiff filed his Complaint alleging that he is entitled to compensation due to an alleged personal injury he sustained on Defendant's premises. Plaintiff prays for judgment to compensate for treatment of his alleged injuries, losses, and damages. A copy of the Complaint is attached hereto as Exhibit A.
2. On November 30, 2017, Defendant was served with a copy of Plaintiff's Complaint.
3. 28 U.S.C. § 1446(b) provides that a Notice of Removal may be filed within thirty days after receipt by the Defendant of the initial pleading. As such, Defendant's Notice of Removal is timely filed under 28 U.S.C. § 1446(b). Pursuant to 28 U.S.C. § 1446(b), the State Court action which was commenced in the Circuit Court of Columbia County, Arkansas may be removed to this Federal District

Court via the United States District for the Western District of Arkansas, El Dorado Division, which embraces Columbia County, Arkansas within its jurisdiction.

4. At all the times relevant to the Plaintiff's complaint, Weyerhaeuser Company was incorporated in the State of Washington and has had its principal place of business there; therefore, it is a citizen of Washington State. *Wachovia Bank v. Schmidt*, 126 S. Ct. 951, 946 U.S. 2006 (Corporation is deemed a "citizen" for §1332 purposes only where its state of incorporation and state where it's principal place of business are located).
5. At no time relevant to the Plaintiff's Complaint has Weyerhaeuser Company had a principal place of business in Arkansas nor was it incorporated in Arkansas.
6. Plaintiff is an Oklahoma citizen and resident. Plaintiff's settlement demand is \$95,000, which exceeds the \$75,000.00 jurisdictional minimum.
7. Settlement demands may be used by courts for the purpose of determining the amount in controversy. *Ray v. Am. Airlines, Inc.*, No. 08-5025, 2008 WL 2323923, at *4 (W.D. Ark. June 2, 2008).
8. As such, because the amount in controversy exceeds the \$75,000.00 jurisdictional minimum and there is a diversity of citizenship, this case can be removed pursuant to 28 U.S.C. § 1332.
9. Pursuant to 28 U.S.C. § 1446(a), Defendant Weyerhaeuser Company attaches to this Notice of Removal a copy of all processed pleadings and other orders served upon it in the state court action to date.

Respectfully submitted,

Forman Watkins & Krutz LLP
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Attorney for Defendant



Mary Clift Abdalla
Bar No. 2007269

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing has been mailed to the following this 27 day of December, 2017.

Phil Votaw
9 North 9th Street
Fort Smith, AR 72901


Mary Clift Abdalla
Bar No. 2007269